

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID LIONEL CARPENTER,
Petitioner,
v.
MARCUS POLLARD, Warden,
Respondent.

No. 2:20-cv-0908 WBS KJN P

FINDINGS AND RECOMMENDATIONS


By order filed May 29, 2020, petitioner was advised that in order to commence an action, he must file a petition for writ of habeas corpus as required by Rule 3 of the Rules Governing Section 2254 cases. (ECF No. 8 at 1.) The court will not issue any orders granting or denying relief until an action has been properly commenced. (*Id.*) Petitioner was granted sixty days in which to file a petition for writ of habeas corpus.¹ Petitioner filed a motion to proceed in forma pauperis. But sixty days have now passed, and petitioner has not filed a petition or other pleading. Petitioner has also not responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

¹ Petitioner was also advised that "[b]y setting this deadline, the court makes no finding or representation that the petition is not subject to dismissal as untimely. See Sossa v. Diaz, 729 F.3d 1225, 1231-35 (9th Cir. 2015)." (ECF No. 8 at 2 n.1.) In addition, petitioner was informed about the one-year statute of limitations. (ECF No. 8 at 2.)

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, petitioner may file written
4 objections with the court. The document should be captioned "Objections to Magistrate Judge's
5 Findings and Recommendations." Petitioner is advised that failure to file objections within the
6 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
7 F.2d 1153 (9th Cir. 1991).

8 Dated: August 11, 2020

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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